

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-31, all of which have been rejected. Claims 1, 11, and 21 have been amended. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPP 2002/0104099 ("Novak") in view of USP 6754904 ("Cooper"). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

### **REJECTION UNDER 35 U.S.C. § 103**

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that

“the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

**I. The Proposed Combination of Novak and Cooper Does Not Render Claims 1-31 Unpatentable**

**A. Rejection of Independent Claims 1, 11, and 21**

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Novak-Cooper does not disclose or suggest at least the limitation of “presenting for displaying, at a first geographic location, said schedule comprising said one or both of personal media and/or broadcast media in a media guide, wherein said media channel may be pushed from said first geographic location to a second geographic location, wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location prior to pushing said media

channel to said second geographic location," as recited by the Applicant in independent claim 1.

The Office Action states the following:

In reference to Claim 1, Novak teaches a method of customizing a channel interface (shown in Figure 11 as described in Paragraphs [0078-0086]), the method comprising:

. . .

presenting for displaying, at a first geographic location (Upload Source 122, which can be an "individual", an "organization", or a "consumer" and "can comprise or can use a set top box, a PC, or other access device...", as described in Paragraphs [0039,0040,0056]; with further reference to [0041,0046,0055,0056,0068,0070, 0074,0080]), the schedule comprising the one or both of personal media and/or broadcast media in a media guide (schedule of personal media is presented to user of Upload Source 122 in Display 710 of Interface 702, as shown in Fig. 7 and described in Paragraphs [0067,0068])

wherein the media channel may be pushed from the first geographic location to a second geographic location (Block 1104 to Block 1112 of Figure 11, as described in Paragraphs [0078-0083], demonstrating the process of providing access to information related to media objects by way of Interface 702; with further reference to Paragraph [0075] and Blocks 1114-1116 of Fig. 11, describing operations of client terminal of end user STB 152 at a [equated to Applicant's "second geographic location"]; with additional reference to Paragraphs [0084-0086]);

wherein the media guide comprises a plurality of channels, (EPG 153 of Fig. 9 displays multiple channels to the end user in the form of Television Channels 902 and synthetic channel Listing 908, as described in Paragraph [0074]. In addition Remote Control Unit 158 is used to tune Television Set 154 to Television Programs 906 and synthetic channel media 910, as described in Paragraphs [0075]).

However, within the disclosure of Novak, it is unclear if one or more of said plurality of channels may be selected and viewed at the first geographic location.

In a similar field of invention, Cooper teaches a method and system for informing a first network user of activity by other network users (Abstract). Cooper further discloses a system consisting of multiple Set-top Boxes (600a and 600b of Fig. 6) that are in communication with each other by way of Server 506 and Internet 508 (as further illustrated in Fig. 5 and described in Col. 3 Line 56-Col. 4 Line 26). Cooper demonstrates in Fig. 6 that each set-top box user on the network is presented with an EPG (602a and 602b) containing multiple television channels that the user is able to select and view at each respective location (as described in Col. 4 Line 28-Col. 5 Line 33).

See the Office Action at pages 3-5. In page 3 of the Office Action, the Examiner has equated Applicant's "first geographic location" to the location of Novak's upload source 122. Furthermore, the Examiner has equated Applicant's "second geographic location" to the location of Novak's set-top-box (STB) 152. Assuming for the sake of argument that a media channel may be pushed from source 122 (equated by the Examiner to "the first geographic location") to STB 152 (equated by the Examiner to "a second geographic location"), the Examiner's argument is still deficient. More specifically, the relevant claim limitation is "presenting, at a first geographic location, ... a media guide, wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location prior to pushing said media channel to said second geographic location," as recited in Applicant's claim 1.

However, Novak discloses that the media guide (or EPG 153) is only displayed at the location of the STB 152 (equated by the Examiner to "a second geographic

location"). Novak simply does not disclose that any media guide is presented at the source 122 (equated by the Examiner to "the first geographic location"). The Examiner is also equating the synthetic channel schedule (as illustrated in Novak's FIG. 7) with Applicant's "media guide." The Applicant respectfully disagrees and points out that FIG. 7 simply illustrates how the upload source 122 may organize various media objects into a single synthetic channel. In this regard, **Novak does not disclose that the synthetic channel schedule comprises a plurality of channels that may be selected and viewed at the first geographic location, i.e., the location of the upload source 122, prior to pushing a channel to the second geographic location.** Furthermore, Novak explicitly states that the various media objects that are organized into the single synthetic channel are ultimately "accessible/displayable from the EPG 153." See Novak at ¶ 0063. In other words, media objects from the single synthetic channel are accessed and displayed at the location of the STB 152 (equated by the Examiner to "a second geographic location"), and not from the location of the source 122 (equated by the Examiner to "the first geographic location").

In fact, in the above Office Action citation, the Examiner concedes that Novak does not disclose that one or more of said plurality of channels may be selected and viewed at the first geographic location. The Examiner then relies for support on Cooper.

Cooper, however, discloses two separate STBs (at two separate locations) where one of the STBs may receive information (e.g., a link) from the other STB, where the information is not media content but information only identifying the media content,

such as television programming, that is being viewed at the other STB. See Cooper at Abstract; col. 4, ll. 42-49; and 702 in Fig. 7. In this regard, none of Cooper's STBs can select/view a media channel, prior to pushing the media channel to another geographic location. In this regard, Cooper does not overcome the deficiencies of Novak.

Therefore, the Applicant maintains that Novak does not disclose or suggest at least the limitation of "presenting for displaying, at a first geographic location, said schedule comprising said one or both of personal media and/or broadcast media in a media guide, wherein said media channel may be pushed from said first geographic location to a second geographic location, wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location prior to pushing said media channel to said second geographic location," as recited by the Applicant in independent claim 1.

Accordingly, the proposed combination of Novak and Cooper does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Applicant submits that claim 1 is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-10, 12-20, and 22-31**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 103(a) has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20, and 22-31 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-10, 12-20, and 22-31.

In general, the Office Action makes various statements regarding claims 1-31 and the cited reference that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-31 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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